

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

PATRICIA J. GIBSON)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.: 03-06cv974-MEF-TFM
)	
WESTPOINT STEVENS, INC.)	
et al.,)	
Defendants.)	

PLAINTIFF'S OBJECTIONS TO MAGISTRATE JUDGE'S ORDER

Pursuant to **Rule 72(a)** of the *Federal Rules of Civil Procedure*,¹ the Plaintiff, Patricia J. Gibson, by and through her attorney of record, files these Objections to the Magistrate Judge's *Order (Doc. 40)* issued on 18 June 2007, with the following contentions:

1. The Magistrate Judge's Order denied *Plaintiff's Motion for Reconsideration of Magistrate's Order* in which the Plaintiff set forth grounds upon which reconsideration should be given (**Doc. 39**) ;
2. Procedurally, the *Plaintiff's Motion for Reconsideration of Magistrate's Order* was filed on 13 June 2007 as Document 39;
3. In addition, the Plaintiff still contends that she and her counsel **did** put forth their positions which substantially justified the delay in responding to the Defendants' discovery requests and objects to the fact that the Magistrate Judge did not consider their positions as such. The Plaintiff contends that upon review of the evidence presented, this Court will find for the Plaintiff, set aside the Magistrate Judge's Order and find it to be clearly erroneous or contrary to law and unjust;
4. Further, the Magistrate Judge's Order denying reconsideration neglected to consider the fact that the Defendants' counsel had agreed to allow the Plaintiff an extension of time for responding to

¹ **Fed. R. of Civ. P. 72(a)** states, in pertinent part, that "[w]ithin 10 days after being served with a copy of the magistrate judge's order, a party may serve and file objections to the order;..."

their discovery requests up to and until 25 April 2007. In addition, the Plaintiff contends that both counsel could have resolved the concerns regarding the discovery without the Court's intervention within a few days after that date, which did occur on 8 May 2007. The Plaintiff reiterates here that she never denied or refused the Defendants the discovery requests, and that but for the extenuating circumstances, which occurred that she contends substantially justified the delay, the requests would have been responded to in a timely manner. Still further, that the Defendants never showed the Court in any manner that the short delay from 25 April 2007 to 8 May 2007 was prejudicial to them in having the case move forward;

4. In the *Plaintiff's Motion to Alter, Amend or Vacate Order (Doc. 22)*, her counsel indicated to the Court the reason for failing to timely respond to the Court's *Order to Show Cause (Doc. 20)*. Given the fact that the Plaintiff's counsel did not have computer access until 1 May 2007, she was not able to submit a responsive pleading until after the Magistrate Judge's deadline of 30 April 2007. However, the Plaintiff submits that a responsive pleading was timely filed as required by the Court on 8 May 2007;

5. The Plaintiff further objects to the Magistrate Judge's *Order* in which it states that the imposition of \$2500.00 in attorney's fees was awarded jointly against the Plaintiff and her counsel. This imposition was never indicated in the previous *Order (Doc. 30)*, which granted the Defendants' attorney's expenses, and it was not indicated during oral argument. In fact, it was obvious that the Court did not include both the Plaintiff and her counsel because, following the Magistrate Judge's *Order (Doc. 30)*, the Defendants' attorneys submitted a request for payment upon the Plaintiff's counsel for the Plaintiff to remit payment by a certain date;

WHEREFORE, PREMISES CONSIDERED, the Plaintiff respectfully prays and requests that this Honorable Court consider these Objections, and upon review of the evidence regarding this

nondispositive matter, deem the Magistrate Judge's Order in error and unjust, and set it aside accordingly.

Respectfully submitted,

s/Lateefah Muhammad

Lateefah Muhammad (Ala. Code MUH001)
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CERTIFICATE OF SERVICE

I hereby certify that on 28 June 2007, I electronically filed the foregoing Plaintiff's Objections to Magistrate Judge's Order with the Clerk of the Court using CM/ECF system which will send notification of such filing to James C. Pennington, Esquire and Fred Suggs, Jr., Esquire, attorneys for Defendants.

s/Lateefah Muhammad

Lateefah Muhammad